

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #4	CCRB Case #: 201905111	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/03/2019 9:30 PM	Location of Incident: § 87(2)(b)	Precinct: 28	18 Mo. SOL 12/3/2020	EO SOL 7/20/2021	
Date/Time CV Reported Wed, 06/12/2019 6:15 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 06/12/2019 6:15 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Ronald Kennedy	15682	964087	028 PCT
2. POM Robert Uribe	20097	937662	028 PCT
3. SGT Francisco Lopez	01161	935203	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Jaeger	29772	950622	028 PCT
2. POM Joshua Guevarra	18881	958662	028 PCT
3. POM Thomas Mcguire	06228	960915	028 PCT
4. POF Stephanie Hanna	27008	943941	028 PCT
5. POM Christophe Durham	04140	965062	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Uribe	Abuse: Police Officer Robert Uribe threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Robert Uribe	Force: Police Officer Robert Uribe used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Ronald Kennedy	Discourtesy: Police Officer Ronald Kennedy acted discourteously toward § 87(2)(b)	§ 87(2)(b)
D.POM Robert Uribe	Discourtesy: Police Officer Robert Uribe acted discourteously toward § 87(2)(b)	§ 87(2)(b)
E.POM Robert Uribe	Force: Police Officer Robert Uribe used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Ronald Kennedy	Abuse: Police Officer Ronald Kennedy threatened to arrest § 87(2)(b)	§ 87(2)(b)
G.POM Ronald Kennedy	Force: Police Officer Ronald Kennedy used physical force against § 87(2)(b)	§ 87(2)(b)
H.POM Ronald Kennedy	Abuse: Police Officer Ronald Kennedy refused to provide his name to § 87(2)(b)	§ 87(2)(b)
I.SGT Francisco Lopez	Abuse: Sergeant Francisco Lopez forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Case Summary

On June 5, 2019, § 87(2)(b) filed this complaint with IAB, generating original log # 19-21944. The CCRB received the log on June 14, 2019. § 87(2)(b) filed this complaint on the CCRB's Call Processing System on June 12, 2019.

On June 3, 2019, at approximately 9:30 p.m., Police Officer Ronald Kennedy and Police Officer Robert Uribe (both of the 28th Precinct) responded to § 87(2)(b) in Manhattan, regarding a domestic dispute between § 87(2)(b) and § 87(2)(b) (daughter of § 87(2)(b)). PO Uribe told § 87(2)(b) that he was going to handcuff § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Uribe took § 87(2)(b) to the ground (**Allegation B: Force**, § 87(2)(g)). After handcuffing § 87(2)(b) PO Uribe stood her up and pulled her out of the apartment while her breasts were exposed (**Allegations C and D: Discourtesy**, § 87(2)(g)). In the hallway, PO Uribe used force against § 87(2)(b) (**Allegation E: Force**, § 87(2)(g)). PO Kennedy used force against § 87(2)(b) (**Allegation F: Force**, § 87(2)(g)). Police Officer § 87(2)(b) Guevara, Police Officer Christopher Jaeger, Police Officer Thomas McGuire, and Sergeant Francisco Lopez (all of the 28th Precinct) arrived at the location. PO Kennedy threatened to arrest § 87(2)(b) (**Allegation G: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) asked for PO Kennedy's name and he did not provide it to her (**Allegation H: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was removed to the hospital. (**Allegation I: Abuse of Authority**, § 87(2)(g)). No arrests were made nor summons issued as a result of this incident.

The investigation obtained the body-worn-camera (BWC) footage of all the officers who responded to this incident. PO Uribe, PO Kennedy, and PO Guevarra's BWC captured this incident most clearly (Board Review 01, 02, 03). § 87(2)(b) (neighbor of § 87(2)(b)) also provided a cell phone video which captured a portion of this incident (Board Review 04)

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Robert Uribe threatened to arrest § 87(2)(b)

Adel § 87(2)(b)

Allegation (B) Force: Police Officer Robert Uribe used physical force against § 87(2)(b)

§ 87(2)(b)

On June 3, 2019, § 87(2)(b) (Board Review 05) and § 87(2)(b) (Board Review 06) called 911 separately. § 87(2)(b) reported that § 87(2)(b) (her mother) threatened her physically and told her to get out of the house. § 87(2)(b) provided a description of § 87(2)(b) and stated that her mother had a psychiatric history and anger issues. § 87(2)(b) disengaged the call before speaking with EMS. The 911 operator informed EMS that § 87(2)(b) was a manic-depressive, EDP, and was trying to hurt the caller. Simultaneously, § 87(2)(b) called 911 and requested EMS for § 87(2)(b). § 87(2)(b) reported that § 87(2)(b) had Bipolar one disorder, was currently in crisis, had already called the police on her and needed to go to the hospital.

§ 87(2)(b) (Board Review 07) testified that § 87(2)(b) suffered from Bipolar one disorder and had been staying with § 87(2)(b) since April of 2019. On June 3, 2019, § 87(2)(b) told § 87(2)(b) that she could no longer stay at her apartment if she did not seek medical attention. § 87(2)(b) called 911 and falsely accused § 87(2)(b) of beating her. After § 87(2)(b) hung up the phone, § 87(2)(b) called 911 and requested an ambulance for § 87(2)(b). § 87(2)(b), § 87(2)(b) cousin, was also present.

Approximately 15 minutes later, officers arrived at the location. § 87(2)(b) answered the door and let the officers inside. The vestibule of apartment was too small to fit all of the officers so they ordered § 87(2)(b) to step back further into the apartment. § 87(2)(b) stepped backwards down the narrow hallway and the officers moved toward her. Simultaneously, an officer asked who called the police and § 87(2)(b) confirmed that she had. § 87(2)(b) asked the officers what they were doing and why they were not speaking to § 87(2)(b). § 87(2)(b) spoke loudly to the officers and used profanity and slurs. The officers ordered § 87(2)(b) to “stay back” and she remained at the front door, away from § 87(2)(b) with PO Kennedy. § 87(2)(b) stood at the opposite end of the hallway and could not move because the officers and § 87(2)(b) were blocking the narrow hallway. § 87(2)(b) observed the officers move objects out of the hallway in order to “capture” § 87(2)(b) as she continued to step back. The officers tackled § 87(2)(b) to the ground and § 87(2)(b) screamed, “Stop. You are hurting me!” § 87(2)(b) told the officers to calm down and to stop being aggressive. § 87(2)(b) remained near the front entrance and did not make physical contact with the officers at any point during this portion of the interaction.

The investigation was unable to obtain a statement from § 87(2)(b) despite numerous contact attempts (Board Review 08).

§ 87(2)(b) (cousin of § 87(2)(b)) provided a phone statement to the investigation (Board Review 09). § 87(2)(b) was in the bathroom at the back of the apartment when the officers arrived. She was unable to see what physically occurred between § 87(2)(b) and PO Uribe. She heard § 87(2)(b) tell the officers to be careful with § 87(2)(b) because she was not taking her medication.

The BWC obtained shows a different order of arrival for the officers involved.

PO Kennedy’s BWC, from the beginning to the end (06:44), captures his initial interaction with § 87(2)(b) (Board Review 02). From 00:00 to 01:39, PO Uribe and PO Kennedy arrive at the location, step out of the elevator, and observe § 87(2)(b) standing at the front door. § 87(2)(b) lets PO Kennedy and PO Uribe inside. PO Uribe and PO Kennedy are the only officers present. § 87(2)(b) walks down the hallway towards the officers and § 87(2)(b). PO Uribe asks who called 911. § 87(2)(b) claps her hands and replies, “I did. That’s why I am speaking to you.” PO Uribe responds, “You going to start off with that attitude?” § 87(2)(b) says, “Oh oh oh you don’t know what happened sir...I called you.” PO Uribe says, “It was a simple question.” § 87(2)(b) says, “Woah woah woah...” PO Uribe says, “We’re going to stop with the ‘woah woah woah.’” § 87(2)(b) replies, “You can leave sir and get me another cop because if this gonna happen like this, it ain’t going to happen like that. Are you off the night shift?” § 87(2)(b) turns to speak with PO Kennedy and says, “Hi, name is § 87(2)(b).” § 87(2)(b) ...Officer Kennedy, my mother told me to get out of my own household and I’m scared because she got in my face like this § 87(2)(b) makes a fist and leans forwards to illustrate) and I told her to leave me alone...I have bipolar one and I’m anxious and I’m scared...and I just came from Urgent Care (turns to PO Uribe) why I have an attitude sir, is because I can’t walk on my foot because my toe is split...I ain’t worried about you (referring to PO Uribe).” PO Uribe says, “You don’t have to worry about me.” § 87(2)(b) walks down the hallway from PO Uribe and faces PO Kennedy. § 87(2)(b) says, “Tell him he’s a trigger and he needs to calm the fuck down.” PO Kennedy steps between PO Uribe and § 87(2)(b). PO Uribe yells, “Miss, can you come out here for me please (referring to § 87(2)(b))?” § 87(2)(b) looks over PO Kennedy’s shoulder and says, “Can you calm your voice down because your triggering me.” PO Uribe responds, “No.” § 87(2)(b) says, “No don’t tell me no sir. You are in my house and you

can fucking leave.” PO Uribe responds, “Alright you’re about to get put in cuffs.” From 03:01 to 03:32, PO Uribe walks past PO Kennedy towards § 87(2)(b) and takes her to the ground. A struggle ensues and § 87(2)(b) screams that she can’t breathe. PO Kennedy’s BWC does not capture the physical altercation between PO Uribe and § 87(2)(b). From 04:47 to 05:03, PO Uribe handcuffs § 87(2)(b) and brings her to her feet.

PO Uribe’s BWC (Board Review 01) is consistent with PO Kennedy’s BWC in how his initial interaction with § 87(2)(b) unfolded, with the exception of his conversation with § 87(2)(b) and his removal of § 87(2)(b) from the apartment. From 02:00 to 02:10, PO Uribe tells § 87(2)(b) that she is “about to get put in cuffs.” § 87(2)(b) stands in front of PO Uribe and says, “Let me explain...” PO Uribe tells § 87(2)(b) that she § 87(2)(b) “is about to be put into cuffs” again. § 87(2)(b) responds, “Okay...I went to the 82 Precinct.” PO Uribe turns away from § 87(2)(b) and says, “Hold on one second.” From 02:19 to 02:23, PO Uribe walks toward § 87(2)(b) and then runs toward her. § 87(2)(b) turns to her left and appears to reach for something as PO Uribe reaches her. PO Uribe’s BWC falls off as he takes § 87(2)(b) to the ground.

PO Kennedy (Board Review 10) testified that he and PO Uribe received a job regarding a violent EDP. PO Kennedy and PO Uribe arrived at the location and encountered § 87(2)(b) at the front door. § 87(2)(b) let PO Kennedy and PO Uribe inside the apartment. § 87(2)(b) explained to them that § 87(2)(b) attempted to kick her out of the apartment. During this conversation, PO Uribe told § 87(2)(b) that she had an attitude. From that point forward, “tensions were high” between PO Uribe and § 87(2)(b). § 87(2)(b) told PO Kennedy that she did not want to speak with PO Uribe. PO Kennedy said she did not have to and offered to speak with her instead. PO Kennedy ushered § 87(2)(b) down the hallway away from PO Uribe. PO Uribe spoke with § 87(2)(b) near the front door. § 87(2)(b) spoke loudly during her conversation with PO Kennedy. PO Kennedy attempted to calm her down. § 87(2)(b) tried to listen to what PO Uribe and § 87(2)(b) discussed. Approximately one minute into PO Kennedy and § 87(2)(b) conversation, § 87(2)(b) turned around, ran further down the hallway, and grabbed a metal trash can located next to entrance of the kitchen. Simultaneously, PO Uribe ran past PO Kennedy towards § 87(2)(b). § 87(2)(b) threw the trashcan in the direction of the officers. The trash can did not hit PO Kennedy. PO Kennedy did not recall if the trash can hit PO Uribe. PO Kennedy stood behind PO Uribe who struggled physically with § 87(2)(b) on the ground. PO Kennedy could not see the altercation between PO Uribe and § 87(2)(b) because the hallway was dark. PO Kennedy eventually got around PO Uribe and § 87(2)(b) so that he stood opposite of PO Uribe, facing the front of the apartment. § 87(2)(b) screamed as PO Uribe put her into handcuffs. PO Kennedy did not participate in handcuffing § 87(2)(b). PO Uribe removed § 87(2)(b) from the apartment.

PO Uribe’s (Board Review 11) testimony was generally consistent with his BWC and PO Kennedy’s testimony, with the exception of his conversation with § 87(2)(b) and his physical interaction with § 87(2)(b). As PO Kennedy attempted to speak with § 87(2)(b), § 87(2)(b) continued to yell and did not let anybody else speak. PO Uribe decided that he was going to “treat her as an EDP.” PO Uribe intended to handcuff and isolate § 87(2)(b) so PO Kennedy was not left alone with her and so that that he could speak with § 87(2)(b) separately. PO Uribe removed his handcuffs and told § 87(2)(b) and § 87(2)(b) that he was going to handcuff her because she was not letting anybody talk and was being too loud. PO Uribe walked towards § 87(2)(b) and § 87(2)(b) screamed, “Get this guy away from me.” As § 87(2)(b) retreated to the back of the apartment, she picked up a three-foot tall metal trashcan, held it above

her head, and threw it at PO Uribe. PO Uribe could not recall if the trash can hit his body. PO Uribe attempted to handcuff her but was unsuccessful. § 87(2)(b) spun around so that she faced PO Uribe and threw closed-fist punches towards his face. None of the punches hit PO Uribe. PO Uribe punched § 87(2)(b) once in return and she fell to the floor stomach first. PO Uribe then handcuffed her. PO Kennedy stood next to PO Uribe while he handcuffed her. PO Uribe stood § 87(2)(b) up, grabbed both of her arms, and pulled her out of the apartment.

In TRI report # § 87(2)(b), PO Uribe acknowledged using hand strikes and a forcible take down against § 87(2)(b) (Board Review 12).

NY Criminal Procedure Law § 140.10 states that a police officer may arrest a person for: (a) Any offense when he or she has reasonable cause to believe that such person has committed such offense in his or her presence; and (b) A crime when he or she has reasonable cause to believe that such person has committed such crime, whether in his or her presence or otherwise (Board Review 14).

NYPD Patrol Guide Procedure 221-02 defines de-escalation as taking actions in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available. The goal is to gain voluntary compliance of the subject when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force. The same procedure defines active aggression as a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent (Board Review 13).

NYPD Patrol Guide 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, size, age, and the condition of the subject in comparison to the MOS (Board Review 15).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Ronald Kennedy acted discourteously toward § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Robert Uribe acted discourteously toward

§ 87(2)(b)

These allegations were captured on body-worn camera and were not alleged by § 87(2)(b) or § 87(2)(b)

PO Kennedy's BWC (Board Review 02), from 04:47 to 05:03, shows PO Uribe handcuffs § 87(2)(b) and brings her to her feet. § 87(2)(b) breasts are fully exposed for approximately 16 seconds. PO Uribe pulls her arms backwards towards the front door. § 87(2)(b) yells to PO Kennedy (who is in front of her), "He is hurting me, Mr. Kennedy. He is hurting me. My titties are out! My titties are out!" PO Kennedy extends his arm, grabs § 87(2)(b)'s upper arm, and says, "Come on, let's go." § 87(2)(b) pulls § 87(2)(b)'s shirt up at the front door and says, "You can't bring her out like that." PO Uribe continues to pull § 87(2)(b) into the hallway outside of the apartment.

PO Kennedy stated that PO Uribe handcuffed § 87(2)(b) and removed § 87(2)(b) from the apartment. § 87(2)(b)'s strapless shirt came down so that her breasts were exposed for approximately 15 seconds. PO Kennedy and PO Uribe did not cover § 87(2)(b) PO Kennedy did not cover § 87(2)(b) because he did not feel comfortable touching her in that area when her breasts were exposed. PO Kennedy did not recall if § 87(2)(b) commented on her breasts being exposed. § 87(2)(b) pulled § 87(2)(b)'s shirt up at the entrance of the front door before she was brought into the hallway.

PO Uribe stated that after handcuffing § 87(2)(b) he stood her up, grabbed both of her arms, and pulled her out of the apartment face first into the hallway. PO Uribe did not recall if § 87(2)(b) complained about her breasts being exposed. The first time PO Uribe became aware that § 87(2)(b)'s breasts were exposed was when he reviewed his BWC. PO Uribe did not cover her up because he did not know her breasts were exposed at that time.

NYPD Patrol Guide Procedure 200-02 Outlines the values of the NYPD; In partnership with the community we (members of the service) pledge to; maintain a higher standard of integrity that is generally expected of others because so much is expected of us [and to] value human life and respect the dignity of each individual and render our services with courtesy and civility (Board Review 16).

§ 87(2)(g)

Allegation (E) Force: Police Officer Robert Uribe used physical force against § 87(2)(b)

It is undisputed that PO Uribe used force against § 87(2)(b) in the hallway. § 87(2)(b) (neighbor of § 87(2)(b) and witness to this portion of the incident) provided a cell phone video of this portion of the incident (Board Review 04). From the beginning to 00:15, § 87(2)(b) is handcuffed and standing face-first against the wall of the hallway with PO Uribe behind her. § 87(2)(b) kicks PO Uribe from behind and he takes her to the ground back-first. PO Uribe moves § 87(2)(b) onto her stomach and puts his knee in her upper back. § 87(2)(b) yells, “Stop you are hurting me!” From 00:17 to 02:40, PO Uribe removes his baton and puts it on § 87(2)(b) ankles and his knees on the back of § 87(2)(b) legs. § 87(2)(b) screams profanities at PO Uribe and says, “If you hurt my mom, I will kill you myself. That is a threat.” Additional officers come out to assist PO Uribe and ask what happened. PO Uribe says, “She threw a fucking trashcan at me...” § 87(2)(b) interrupts and says, “Because you were charging me! And now you have my titties out in front of my neighbors, you fucking ass hole.” PO Uribe tells § 87(2)(b) that it was her fault and § 87(2)(b) responds, “That ain’t my fucking fault.” From 02:43 to 03:06, § 87(2)(b) turns onto her back and her breasts are visible. § 87(2)(b) says, “Fix her shirt, fix her shirt.” An unidentified female comes into the frame and pulls § 87(2)(b) shirt. From 03:08 to 04:38, § 87(2)(b) sits up and officers surround her. PO Uribe stands § 87(2)(b) up and pushes her against the wall face first. § 87(2)(b) asks the other officers why PO Uribe is still touching her. From 04:39 to 05:21, § 87(2)(b) kicks PO Uribe from behind a second time. PO Uribe and Sgt. Lopez take § 87(2)(b) to the ground again. PO Uribe tells § 87(2)(b) to stay still. PO Uribe has his knee on § 87(2)(b) back. From 07:44 to the end of the video, EMS arrives and escorts § 87(2)(b) into the elevator.

PO Uribe’s testimony regarding this portion of the incident is consistent with the cell phone video provided by § 87(2)(b) (Board Review 11).

Sgt. Lopez (Board Review 17) testified that he encountered PO Uribe on top of § 87(2)(b) attempting to “control” her. PO Uribe appeared “heated” as he was breathing heavily because he had just tackled her to the ground. PO Uribe held § 87(2)(b) on the ground by her hands which were in handcuffs behind her back.

NYPD Patrol Guide 221-02 defines active aggression as a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. The same procedure defines active resisting as physically evasive movements to defeat a member of the service’s attempt to control, including bracing, tending, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody (Board Review 13).

NYPD Patrol Guide 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. MOS will only the reasonable force necessary to gain control or custody of a subject (Board Review 15)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Ronald Kennedy threatened to arrest

§ 87(2)(b)

Allegation (G) Force: Police Officer Ronald Kennedy used physical force against § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Ronald Kennedy refused to provide his name to § 87(2)(b)

§ 87(2)(b) (Board Review 07) continued to tell the officers to calm down in dealing with § 87(2)(b) outside of the apartment in the hallway. PO Kennedy turned around, yelled at § 87(2)(b) and then lunged at her. § 87(2)(b) stepped back into the apartment and raised her forearms up so that her hands were level with her shoulders. PO Kennedy bent his arm, pushed it into the front of § 87(2)(b) neck, and leaned into her. § 87(2)(b) fell onto her back and PO Kennedy landed on top of her. PO Kennedy grabbed § 87(2)(b) shoulders and flipped her over so that she was on her stomach. PO Kennedy then handcuffed § 87(2)(b)

PO Kennedy's BWC (Board Review 02) captured this portion of the incident. From 05:07 to 06:44, § 87(2)(b) stands in the doorway of the apartment. PO Kennedy walks down the hallway and requests a second ambulance and a possible sedation. § 87(2)(b) approaches PO Kennedy and says, "Would you kindly call the 82nd Precinct? They know my..." PO Kennedy interrupts her and says, "Okay you need to back up" and walks into § 87(2)(b) § 87(2)(b) steps back and says, "Don't touch me like that." PO Kennedy grabs § 87(2)(b) left arm, which is bent, and holds it in front of her face as he pushes her into the apartment. § 87(2)(b) yells, "No, no, no, no, no!" PO Kennedy says, "If you don't get out of my way and stop obstructing what we're doing you're going to jail. Do you want to go to jail? Do you want to go to jail?" § 87(2)(b) asks PO Kennedy if he wants her to go to jail. PO Kennedy pushes § 87(2)(b) into the apartment. PO Guevarra is in the background and can be heard saying, "Stop, stop, stop." § 87(2)(b) tells PO Kennedy that he "needs to calm his ass down." PO Kennedy pushes § 87(2)(b) into a dark room, says, "Get out of my way," and then turns around to leave. § 87(2)(b) tells PO Kennedy again that he needs to "calm his ass down." The screen goes dark and nothing can be seen. A struggle ensues and PO Kennedy says, "You want..." His BWC then ends abruptly.

PO Guevarra's BWC (Board Review 03) also captured this portion of the incident (Board Review 03). From 01:09 to 01:45, PO Guevarra arrives at the scene as PO Kennedy pushes § 87(2)(b) into the apartment. PO Guevarra reaches his hand out and grabs PO Kennedy's arm while saying "Stop, stop, stop." PO Kennedy pushes § 87(2)(b) into a room inside. PO Guevarra follows him with his arms out, reaching for PO Kennedy. § 87(2)(b) says, "You want to tase me?" The room is dark but the outline of § 87(2)(b) body can be seen on the floor. § 87(2)(b) says, "This is excessive force, this is excessive force." PO Kennedy is on top of § 87(2)(b) attempting to handcuff her. PO Kennedy tells § 87(2)(b) to stop resisting and she responds, "I am not resisting." § 87(2)(b) says, "What's your name, son?" PO Kennedy does not answer and orders her to turn around.

PO Kennedy (Board Review 10) testified that he and § 87(2)(b) remained at the entrance of the apartment five feet away from PO Uribe and § 87(2)(b) who were in the hallway. § 87(2)(b) demanded that he call the Precinct and have the Sergeant come to the

location. PO Kennedy ordered § 87(2)(b) to step out of the way. He wanted to keep § 87(2)(b) and § 87(2)(b) separate because he was concerned for § 87(2)(b) safety. PO Kennedy attempted to keep § 87(2)(b) inside of the apartment by blocking the entrance with his body. § 87(2)(b) walked into PO Kennedy in an attempt to reach § 87(2)(b). PO Kennedy informed § 87(2)(b) that she would go to jail if she did not stop obstructing what they were doing. PO Kennedy stated that at that time she could have been arrested for Obstructing Governmental Administration. PO Kennedy put the palm of his hand in front of him and § 87(2)(b) stepped back into the apartment. He turned around to exit the apartment and she tried to walk past him again. PO Kennedy ordered § 87(2)(b) to back up again. He put his hand up a second time and pushed her further into the apartment into a bedroom. As PO Kennedy turned to exit the apartment for the second time, § 87(2)(b) pushed him from behind on his upper back. PO Kennedy stumbled, turned around, and grabbed one of her hands to put a cuff on. At this point, PO Kennedy and § 87(2)(b) were in the bedroom near the front of the apartment. § 87(2)(b) pulled away from him. § 87(2)(b) and PO Kennedy both fell to the ground. PO Kennedy then handcuffed her. PO Kennedy did not recall hearing § 87(2)(b) request his name.

PO Guevarra (Board Review 18) testified that when he first arrived at the location, he observed PO Uribe with § 87(2)(b) in the hallway and PO Kennedy and § 87(2)(b) arguing face to face approximately five feet away in front of the apartment door. PO Kennedy's back was to PO Uribe and § 87(2)(b) was to her apartment door. Both PO Kennedy and § 87(2)(b) were speaking loudly; § 87(2)(b) was "talking down" to PO Kennedy but was not making any physical movements. PO Kennedy appeared upset and yelled back at § 87(2)(b). PO Guevarra told PO Kennedy to stop multiple times and tried to pull him away from § 87(2)(b). PO Guevarra wanted to separate them because he thought that he (PO Guevarra) would have a better chance at gaining compliance from § 87(2)(b) and because it was clear PO Kennedy had "tunnel vision." PO Guevarra explained that all of PO Kennedy's attention was on § 87(2)(b) and he had forgotten that additional officers had arrived to help him. PO Guevarra tried to pull PO Kennedy back from § 87(2)(b) and repeatedly told him to stop. PO Guevarra followed behind PO Kennedy as he brought § 87(2)(b) into a room inside of her apartment. Once § 87(2)(b) was in the room, PO Guevarra and PO Kennedy turned to exit. PO Guevarra was closest to the front door and PO Kennedy was behind him. As they began to leave the room, PO Guevarra observed from his peripheral § 87(2)(b) push PO Kennedy from behind. PO Kennedy turned around and took § 87(2)(b) to the ground. Once she was on the ground PO Guevarra and PO Kennedy put her into handcuffs.

NYPD Patrol Guide 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the size and age of the subject, and the condition of the subject in comparison to the MOS (Board Review 15).

New York Penal Law Section 195.05 states that an individual is guilty of obstructing governmental administration when he obstructs, impairs, or perverts the administration of law or

other governmental function by means of intimidation, physical force or interference, whether or not physical force is involved (Board Review 19)

Patrol Guide Procedure 203-09 states that when a uniformed member of the service interacts with a member of the public and/or concludes law enforcement activities they must courteously and clearly state your rank, name, shield number, and command, or otherwise provide them, to anyone who requests you to do so when appropriate (Board Review 20)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (I) Abuse of Authority: Sergeant Francisco Lopez forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) testified (Board Review 07) that she was transported to § 87(2)(b). She was discharged from the hospital between 1:00 a.m. and 2:00 a.m. on § 87(2)(b). § 87(2)(b) did not want to go to the hospital and she was never told why she was taken there.

PO Guevara's BWC captures his interaction with § 87(2)(b) after she was handcuffed and before she was removed to the hospital (Board Review 03). From 02:38 to the end of the BWC (34:43), PO Guevarra and PO McGuire stay with § 87(2)(b) in the bedroom. During this time, § 87(2)(b) has casual conversations with the officers about the situation with § 87(2)(b) and that she was having a manic episode, which is why she called the police. § 87(2)(b)

§ 87(2)(b) appears calm, does not engage the officers in a threatening manner physically or verbally, and does not appear to be under the influence of alcohol or drugs. During this time, Sgt. Lopez comes into the room and tells § 87(2)(b) that he recognizes her from the Precinct. Sgt. Lopez asks § 87(2)(b) if she takes any medication and she says yes and offers to provide her psychiatrist's phone number. At one point her cousin, § 87(2)(b) comes into the room. The officers allow § 87(2)(b) to retrieve a glass of water for § 87(2)(b) and let her make a phone call to her pastor.

PO Kennedy testified that he did not consider § 87(2)(b) to be a danger to him or herself at any point during their interaction. § 87(2)(b) appeared to be "upset" and "angry" but not "temporarily deranged" or "incoherent." However, PO Kennedy considered § 87(2)(b) to be an EDP because she screamed and pushed him from behind. PO Kennedy stated that it was Sgt. Lopez's decision to remove § 87(2)(b) to the hospital.

PO Guevarra testified (Board Review 18) that during the time they waited for EMS to arrive, § 87(2)(b) had calmed down significantly. She asked the officers for water and had her cousin facetime her pastor for her. PO Guevarra did not know if Sgt. Lopez or PO Kennedy called EMS for § 87(2)(b). He did not recall which officers spoke with EMS regarding § 87(2)(b) nor did he know which officers transported her to the hospital.

Sgt. Lopez (Board Review 17) testified that upon arrival, PO Kennedy explained that when he and PO Uribe initially entered the apartment § 87(2)(b) was out of control and needed to be handcuffed. After § 87(2)(b) was in handcuffs, § 87(2)(b) attacked PO Uribe and PO Kennedy. Sgt. Lopez did not observe any injuries on PO Kennedy, nor could he recall the details of the attack PO Kennedy described. An additional ambulance was called for § 87(2)(b) however, he could not recall who made the call. § 87(2)(b) was not arrested because Sgt. Lopez did not think her actions constituted an arrestable offense. Sgt. Lopez did not observe any injuries on § 87(2)(b) however, she appeared "deranged" and "inconsistent." When asked to explain what he meant by "deranged" and "inconsistent," Sgt. Lopez stated that he could not recall if it was PO Kennedy's narrative of what had occurred prior to his arrival or his own interaction with § 87(2)(b) that led him to that conclusion. Sgt. Lopez could not recall § 87(2)(b) demeanor nor could he recall if had any conversation with her during their interaction. Sgt. Lopez stated that it was PO Kennedy's account of what happened, combined with his own previous interaction with § 87(2)(b) at the stationhouse, that contributed to his decision to remove § 87(2)(b) to the hospital because he felt she needed to be evaluated.

PO Kennedy prepared an AIDED report for § 87(2)(b). PO Kennedy marked that § 87(2)(b) physically threatened others because she shoved him. PO Kennedy could not recall why he marked that he suspected § 87(2)(b) to be under the influence of alcohol. In the "details" section of the report, PO Kennedy noted that EMS observed symptoms of intoxication. PO Kennedy did not recall interacting with EMS. He did not recall who told him about § 87(2)(b) being intoxicated but that someone must have because he wrote it on the report.

The TRI report (# § 87(2)(b)) prepared by PO Kennedy for § 87(2)(b) notes that he suspected drug use at the time of the incident. PO Kennedy could not recall why he marked that on the report (Board Review 21).

The Ambulance Care Report (ACR) noted that PO Kennedy escorted § 87(2)(b) to the hospital. It further states that "PD (Police Department) stated that PT (patient § 87(2)(b)) became aggressive with them and she was handcuffed as a result while they were restraining her daughter. § 87(2)(b) did not complain of pain or injury to any specific body party and that she had consumed a small amount of wine her dinner that night (Board Review 22).

NYPD Patrol Guide Procedure 221-13 defines an Emotionally Disturbed Person (EDP) as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner in which a police officer reasonably believes is likely to result in serious injury to himself or others (Board Review 23).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 24).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 25).
- PO Uribe has been a member-of-service for 15 years and has been named a subject in five complaints and 10 allegations, one of which was substantiated.
 - 201906612 involved a substantiated allegation of a discourtesy (word). The Board Recommended Command Level Instruction and the NYPD has not yet imposed discipline.
 - § 87(2)(g)
- PO Kennedy has been a member-of-service for two years and has been named a subject in one complaint and three allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Lopez has been a member-of-service for 15 years and has been named a subject in five complaints and 11 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 26)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 27).

